

CHAPTER 58
THIRD-PARTY ADMINISTRATORS

191—58.1(510) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code chapter 510 relating to the regulation of third-party administrators.

191—58.2(510) Definitions. The terms defined in Iowa Code section 510.11 shall have the same meaning for the purposes of this chapter.

“*Commissioner*” means the commissioner of insurance for the state of Iowa.

“*Complaint*” means a written communication expressing a grievance concerning an administrator.

“*Division*” means the insurance division of Iowa.

“*Person*” means an individual, corporation, trust, partnership or association, or any other legal entity.

191—58.3(510) Application. An administrator shall not operate as an administrator in Iowa without an approved application from the division. All administrators wishing to do business in Iowa shall complete an application on a form provided by the division. The application form shall be completed and signed by an officer or authorized representative of the administrator. The completed application form shall be verified and filed at the division with copies in triplicate. The application shall be accompanied by a filing fee of \$100 payable to the Iowa division of insurance.

An application will not be deemed to be filed until all information necessary to properly process the application has been received by the commissioner. Upon filing, the division will make its determination concerning the application and will provide notice of the determination to the administrator. If an application is approved, it shall be so stamped and a copy provided to the administrator. The approved application shall serve as the administrator’s authorization until the renewal date. Any amendment to the application form shall be filed in the same manner as the application and approved by the commissioner before the change proposed by the amendment is effective.

191—58.4(510) Application by corporation, association or benefit society. An application by a corporation, association or benefit society shall be accompanied by a certified copy of the articles of incorporation or association.

191—58.5(510) Surety bond. All applications shall include a surety bond issued by an insurance company licensed to do business in the state of Iowa in an amount equivalent to 10 percent of the administrator’s average daily client account balance during the preceding calendar year. In no case shall the bond be less than \$50,000 or more than \$1,000,000. If an administrator cannot obtain a bond, then another security including, but not limited to, cash or negotiable securities in an equal amount may be set aside under terms agreeable to the commissioner.

The surety bond shall be in the form prescribed by the commissioner. The bond shall be payable to the commissioner to ensure the financial protection of the administrator’s customers, subject to the dollar limitation of the surety bond.

191—58.6(510) Waiver procedure. Administrators applying for a waiver of the registration requirement under Iowa Code section 510.22 shall, in addition to an application, submit a written, detailed and documented statement as to the basis for the requested waiver. The commissioner shall make a determination with regard to the request for waiver within 60 days of receipt of the request by the division.

The commissioner may grant waivers at the commissioner’s discretion. However, in order to be considered, the following factors shall be contained in the request for waiver and documented to the commissioner’s satisfaction:

1. A certified written statement of the applicant’s net worth provided by a certified public accountant. In order to be granted a waiver, the applicant’s net worth shall be at least \$2 million; and

2. The applicant has been doing business as an administrator as defined in Iowa Code section 510.11 for at least three years; or

3. The administrator generates 10 percent or less of its total revenue from its business as an administrator as defined in Iowa Code section 510.11.

In addition, the division may request any information the commissioner deems relevant in making a determination on a request for waiver. In the case where a waiver is granted, the waiver shall expire at a date which is three years from the date on which the waiver was granted. The commissioner may for good cause revoke a waiver at any time following notice and an opportunity for hearing.

191—58.7(510) Change of information. An administrator shall notify the commissioner in writing of any change in the information required to be filed under these rules including, but not limited to, a change of address or name, no later than 30 days after the change. If notification is not provided, the certificate of registration may be terminated following notice and an opportunity for hearing.

191—58.8(510) Inquiry by commissioner. The commissioner may address any inquiries to an administrator concerning its business. An administrator shall promptly reply in writing to any inquiry made by the commissioner.

An administrator shall keep all complaints on file for a period of five years. Complaint information shall be made available to the division by the administrator at any time upon the commissioner's request.

191—58.9(510) Renewal procedure. An administrator wishing to maintain its certification in Iowa is required to complete a renewal form provided by the division no later than 60 days before the third anniversary of the most recent certificate approval. The renewal form shall meet all the requirements for the original application as described in these rules. The renewal form shall be accompanied by a filing fee of \$100 payable to the Iowa division of insurance.

If the renewal form is not filed in the prescribed time, sanctions of rule 58.11(510) may be imposed. Late filings shall be subject to a late filing fee of \$500. The division shall provide notice of the renewal or the termination of the certificate of registration.

191—58.10(510) Periodic examination. The commissioner reserves the right to examine an administrator or require the most recent audited financial statements from the administrator and such other interim evidence as the commissioner deems appropriate. Reasonable cost of the examination or audited financial statements is to be paid by the administrator. Examination shall include, but not be limited to: financial condition, premium collection, claims processing and marketing practices.

If any one or more of the following factors are present, the commissioner may require and determine an amount of additional security:

1. Insufficient liquid assets or retained earnings;
2. A deteriorating financial condition, as evidenced through an examination by the commissioner or any other insurance commissioner;
3. Any other relevant consideration(s).

191—58.11(510) Grounds for denial, nonrenewal, suspension or revocation of certificate. The following constitute grounds for denial, nonrenewal, suspension or revocation of an administrator's certificate following notice and an opportunity for hearing:

1. Failure to comply with any provisions of these rules or of Iowa Code section 515.134 and Iowa Code chapter 510;
2. Failure to comply with any lawful order of the commissioner;
3. Committing an unfair or deceptive act or practice as defined in Iowa Code chapter 507B;
4. Deterioration of financial condition adversely affecting the certificate holder's ability to operate as an administrator;

5. Filing an application or any necessary forms with the division which contain fraudulent information or omissions;

6. Misappropriation, conversion, illegal withholding, or refusal to pay over upon proper demand any moneys that belong to a person otherwise entitled to it and that have been entrusted to the administrator in its fiduciary capacities;

7. Insufficient explanation, as determined by the commissioner, of the circumstances surrounding evidence that an owner, principal, officer, partner, manager, director, stockholder, trustee, employee of the administrator or the administrator itself:

- Has had an insurance license or an application for an insurance license in any state denied, suspended or revoked;

- Has been the subject of an investigation, fine, penalty, order, withdrawal or informal settlement with any state insurance department;

- Has been the subject of a criminal investigation, summons, arrest, indictment or questioning; or

- Has been charged, tried, convicted of, or pled guilty or no contest to any felony or misdemeanor;

or

8. Finding by the commissioner that the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation.

191—58.12(510) Hearing and appeal. Prior to denying an application or a renewal application or suspending or revoking a certificate issued under this chapter, a certificate holder shall be provided with written notice of the commissioner's allegations and provided an opportunity for a hearing and a right to appeal as provided in rule 191—3.1(17A,502, 505) and Iowa Code chapter 17A.

191—58.13(510) Severability clause. If any provision of this chapter, or the application thereof to any person or circumstance, is subsequently held to be invalid, such invalidity shall not affect other provisions or applications of this chapter.

These rules are intended to implement Iowa Code chapter 510.

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CHAPTERS 59 to 69

Reserved